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**FROM:** Robert A. Swift**DATE:** May 26, 2006**PHONE:** 215-238-1700**CLIENT/FILE NO.** 5282-13537**NAME OF CASE:****PLEASE DELIVER AS SOON AS POSSIBLE TO:**

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May 26, 2006

**VIA FAX and US MAIL**

Eugene D. Gulland  
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Neil K. Roman  
Joshua D. Greenberg  
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1201 Pennsylvania Avenue, NW  
Washington, DC 20004

**Re: Pimentel v. B.N. Development Company, Inc. et al.**

Dear Mr. Gulland:

I wish to briefly respond to your letter of May 9, 2006 which questioned whether the Judgment of February 3, 1995 was valid and enforceable at the time it was registered in Texas in light of Haw. Rev. S. Ann. § 657-5.

As you should know, the Judgment was rendered in by the United States District Court for the District of Hawaii based on federal causes of action. There are numerous answers to your argument including:

- The Supremacy Clause of the US Constitution, Article VI, prohibits a state law from trumping a federal law. The Hawaii statute directly conflicts with 28 U.S.C. § 1963 among others.
- The Judgment did not become final until January 8, 1997, less than 10 years ago. A judgment may not be transferred to another district until it is final.
- HRS 657-5 by its own terms does not apply to federal judgments. The statute is limited to "every judgment and decree of any court of the State."
- The Judgment has been transferred to other districts at various times since it became final, and every transfer is deemed to revive the Judgment.
- Hawaii statutes limiting the time to pursue remedies have been held inapplicable to federal statutes. *See, e.g. Hawaii Carpenters Trust Fund v. Waiola Carpenter Shop, Inc.*, 823 F.2d 289, 297 (9<sup>th</sup> Cir. 1987)

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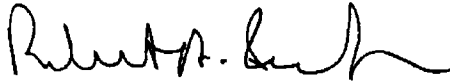
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EUGENE D. GULLAND  
MAY 26, 2006

- HRS 657-20 extends any statute of limitations for six years where there has been fraudulent concealment. The text of the Judgment and later Contempt Order establish fraudulent concealment by the judgment debtor.
- Partial collection of a judgment suspends or tolls any statute of limitations under Hawaii law. In this case there has been partial collection during the past ten years.
- If HRS 657-5 were to apply, which it does not, Plaintiffs have the right to revive the Judgment at any time.

In short, I do not believe there is a legal or factual basis for your argument.

Very truly yours,



Robert A. Swift

RAS:pdw